

BEFORE THE  
POSTAL REGULATORY COMMISSION  
WASHINGTON, D.C. 20268-0001

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*In the Matter of:*  
Still Pond Post Office  
Still Pond, Maryland

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Docket No. A2011-33

**MOTION OF UNITED STATES POSTAL SERVICE  
TO DISMISS PROCEEDINGS**

(August 9, 2011)

By means of Order No. 776 (July 28, 2011), the Postal Regulatory Commission (Commission) docketed correspondence from Craig O'Donnell (Petitioner) as an appeal, assigning PRC Docket No. A2011-33, pursuant to 39 U.S.C. § 404(d). That correspondence purported to invoke the Commission's jurisdiction to consider an appeal concerning the Still Pond Post Office. The correspondence was received by the Commission on July 25, 2011 and led to the issuance of Order No. 776. Order No. 776, at 3, established August 10, 2011, as the date by which "[t]he Postal Service shall file the administrative record regarding this appeal," or file "any responsive pleading." This pleading responds to that directive.<sup>1</sup>

As background, this matter involves the possible discontinuance of a Post Office located in Still Pond, Maryland. On June 30, 2011, the Proposal to Close the Still Pond Post Office and Continue to Provide Service by Rural Route

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<sup>1</sup> The Postal Service is filing with this notice, as Exhibit 1, the date-stamped cover of the Proposal to Close the Still Pond Office and Continue to Provide Service by Rural Route Service, which was posted at the Still Pond, Maryland, Post Office beginning on June 30, 2011.

Service (Proposal) was posted at the Still Pond, Maryland Post Office. Exhibit 1, which is attached to this Motion to Dismiss, is a copy of the round date stamped cover of the Proposal that was posted at the Still Pond, Maryland Post Office. The cover of the Proposal has the round date stamp of June 30, 2011. The Postal Service has yet to make available to any person served by the Still Pond Post Office a written Final Determination of the Postal Service to close the Still Pond, Maryland Post Office.

According to the applicable regulations, only after the public has been provided with an opportunity to comment on a proposal by the Postal Service to close a Post Office,<sup>2</sup> and those comments have been received and taken into account by the Postal Service,<sup>3</sup> and a Final Determination has been made which constitutes the Postal Service determination for the purposes of 39 U.S.C. § 404(d),<sup>4</sup> and the written Final Determination has been made available to persons served by the post office,<sup>5</sup> may any person served by such post office file an appeal concerning the written Final Determination at the Postal Regulatory Commission.<sup>6</sup>

Because the petition for review filed by the Petitioner, which was received by the Commission on July 25, 2011, was filed prior to the Postal Service issuing

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<sup>2</sup> See 39 C.F.R. § 241.3 (d).

<sup>3</sup> See 39 C.F.R. § 241.3 (e).

<sup>4</sup> See 39 C.F.R. § 241.3 (f). Sec. 1010(e) of Postal Accountability and Enhancement Act, Pub. L. 109-435, 120 Stat 3198, 3261 (December 20, 2006) redesignated 39 U.S.C. § 404(b) as 39 U.S.C. § 404(d).

<sup>5</sup> See 39 C.F.R. § 241.3(g).

<sup>6</sup> See 39 U.S.C. § 404(d)(5), which states that “[a] determination of the Postal Service to close or consolidate any post office may be appealed by any person served by such office to the Postal Regulatory Commission within 30 days after such determination is made available to such person.”

a written Final Determination, the Commission should dismiss the appeal on grounds that it was prematurely received.

In these circumstances, dismissal is the appropriate remedy. See Docket No. A89-8 (dismissing an appeal that was premature).<sup>7</sup> The Commission's jurisdiction need not be invoked because the Postal Service has not yet made a final determination to close the Still Pond, Maryland Post Office.

### CONCLUSION

Because the Postal Service has yet to issue a written Final Determination to close the Still Pond, Maryland Post Office, the petition for review filed by the Petitioner was prematurely received. Therefore, the Commission should dismiss the appeal.

Respectfully submitted,

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<sup>7</sup> Order No. 829, Order Dismissing Docket No. A89-8 Lafontaine, Kansas, Postal Rate Commission Docket No. A89-8, June 29, 1989. See *also* Order No. 833, Order Dismissing Docket No. A89-10 Fineview, New York 13640, Postal Rate Commission Docket No. A89-10. July 19, 1989.